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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,137	10/28/2003	Larry E. Hawker	555255012611	6439

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EXAMINER	
PAUL, DISLER	

ART UNIT	PAPER NUMBER
2614	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/695,137	HAWKER ET AL.	
	Examiner	Art Unit	
	DISLER PAUL	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 July 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *25-26;29-34;37-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *25-26;29-34;37-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on 7/28/09 as in regard to "the safe volume profile providing a default volume setting selected to reduce risk of damage to a user's hearing if the mobile device is operated in close proximity to the user's ear while in the handsfree mode of operation" have *been fully considered and prosecution is re-opened so as to clarify the examiner's last office action.*

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 25, 30-33, 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Yoo (US 2004/0185919) and Cook (US 6,434,407 B1).

Re claim 25, Kraft disclose of the method of processing a voice call at a mobile device, comprising: storing a predetermined volume profile at the mobile device associated with a handsfree mode of operation, the volume profile providing a default volume setting for a speaker is selected during a situation as in the phone is operated in close proximity to the user's ear while in the handsfree mode of operation (Table-1-2, par [0020, 0022, 0024, 0037]/volume setting for a handfree mode operation may be selected by the user as desired & having such handfree mode

when user wear headset at ear). Since the user with handsfree mode of operation may set the volume setting appropriately as desired with default status, it would have been obvious that by common sense the volume set by the user could have been a safe volume setting so that user's ears would be less likely being damaged.

Thus, Kraft as modified would have disclosed of having the safe volume profile providing a default volume is selected to reduce the risk of damage to a user's hearing if the mobile device is operated in close proximity to the ear (Table 1-2; par [0022, 0024]/default volume having speaker as being connected to user's ear with the headset).

Kraft further disclose of answering an incoming call with the mobile device in the handset mode of operation according to a regular volume profile (table 1, par [0016]/the user may answer incoming phone in a handset mode of operation when the hands-free mode is off).

However, Kraft failed to disclose of the regular volume profile being higher than the default setting of the volume profile. But, since Kraft did disclose of adjusting the desired volume profile by the user in handset and default volume setting in handsfree by the user (Table-1-2; par [0010, 0015, 0022, 0032]/the user may manually adjust the volumes desired with the corresponding setting of hands-free or handset mode in proximity to the user]. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with incorporating such user volume setting as either modes of operation to have the regular volume

profile in handset being higher than the default setting of the volume profile of the handsfree in compensating for the speaker audio level in proximity to the user' ear according to each mode.

However, Kraft failed to disclose of switching the mobile device from the handset mode of operation to handsfreee mode of operation while processing the incoming call. But, Yoo disclose of a system wherein such concept of switching the mobile device from the handset mode of operation to handsfreee mode of operation while processing the incoming call (Abstract, par [0006; 0009]) so as to safely continue carrying conversations on the phones. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with switching the mobile device from the handset mode of operation to handsfreee mode of operation while processing the incoming call so as to safely continue carrying conversations on the phones.

While, the combined teaching of Kraft and Yoo as a whole, disclose operating the mobile device in the handsfree mode of operation according to the safe volume profile so as to protect the hearing of the mobile device user (Table 1-2). However, they fail to disclose of the specific wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker. But, Cook disclose of a system wherein such limitation speakers for different mode of operation and specifically wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second

speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker (fig.1 (105,125); col.1 line 53-60; col.2 line 19-23 & line 37-41; & line 50-57; col.3 line 34-40; col.1 line 10-14) in generating loud/audible signals without causing damage to the user's ear. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker for purpose of generating loud/audible signals without causing damage to the user's ear.

Re claim 33, Kraft disclose of the mobile device having a speaker, comprising : a memory for storing a volume profile associated with a handsfree mode of operation , the safe volume profile providing a default volume setting during a situation as in the speaker phone is operated in close proximity to the user's ear while in the handsfree mode of operation (fig.1 (10); Table-1, par [0020,0022, 0024]/ the user with handsfree mode of operation may set the volume setting appropriately as desired with detecting of head set at ear). Since the user with handsfree mode of operation may set the volume setting appropriately as desired with default status, it would have been obvious that by common sense the volume set by the user could have been a safe volume setting so that user's ears would be less likely being damaged.

Kraft further disclose of a transceiver for receiving and answering an incoming call (fig. 1-2; par [0010; 0016]); a mode control system for selecting the handset mode of operation to process the incoming call, the handset mode of operation having an associated regular volume profile (fig.1 (11); table 1, par [00126; 0016]/the user may answer incoming phone in a handset mode of operation when the hands-free mode is off).

However, Kraft failed to disclose of the handset mode of operation having a volume profile being higher than the default setting of the volume profile. But, since Kraft did disclose of adjusting the desired volume profile by the user in handset and default volume setting in handsfree by the user (Table-1-2; par [0010, 0015, 0022, 0032]/the user may manually adjust the volumes desired with the corresponding setting of hands-free or handset mode in proximity to the user]. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with incorporating such user volume setting as either modes of operation to have the handset mode of operation having a volume profile being higher than the default setting of the volume profile in compensating for the speaker audio level in proximity to the user' ear according to each mode.

However, Kraft failed to disclose of the mode control system further comprising means for switching the mobile device from the handset mode of operation to the handsfree mode of operation while processing the incoming call. But, Yoo disclose of a system wherein such concept of the mode control system further comprising means for switching the mobile device from the handset mode of operation to the handsfree mode of operation while processing the

incoming call (Abstract, par [0006; 0009]) so as to safely continue carrying conversations on the phones. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with the mode control system further comprising means for switching the mobile device from the handset mode of operation to the handsfree mode of operation while processing the incoming call so as to safely continue carrying conversations on the phones

The combined teaching of Kraft and Yoo as a whole, further disclose of the means for operating the mobile device in the handsfree mode of operation according to the safe volume profile so as to protect the hearing of the mobile device user (table 1-3; par [0020, 0026, 0032], user setting volume with the mode including the handsfree).

The combined teaching of Kraft and Yoo as a whole, fail to disclose of the specific wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker. But, Cook disclose of a system wherein such limitation speakers for different mode of operation and specifically wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker (fig.1 (105,125); col.1 line 53-60; col.2 line 19-23 & line 37-41; & line 50-57; col.3 line 34-40; col.1 line 10-14) for purpose of generating

loud/audible signals without causing damage to the user's ear. Thus, taking the combined teaching of Karft and Cole as a whole, it would have been obvious for one of the ordinary skill in the art to have modified Kraft with the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker for purpose of generating loud/audible signals without causing damage to the user's ear.

Re claim 30, the method of claim 25, further comprising: switching the mobile device from the handsfree mode of operation back to the handset mode of operation while processing the incoming call (Yoo, Abstract, par [0006; 0009]); and operating the mobile device in the handset mode of operation according to the regular volume profile (Table 1-2; par [0010, 0037];/mode may be changed with user preselected modes)

Re claim 31, the method of Claim 25, further comprising: prior to answering the incoming call with the mobile device, enabling a notification on the mobile device indicating the receiving of the incoming call ([table 1], [0016]).

Re claims 38-39 have been analyzed and rejected with respect to claims 30-31 respectively.

Re claim 32, the method of claim 31, further comprising: determining whether to answer the incoming call in response to the notification and diverting calls when not answered (table 1

and par[0015-0016]), But, the combined teaching of Kraft and Yoo and Cook as a whole, fail to disclose of the specific determining whether to redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered. However, official notice is taken that the limitation of redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered is commonly known in the art, thus it would have been obvious for one of the ordinary skill in the art to modify the combined teaching of Kraft and cook as whole, by incorporating the redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered enabling the phone user to hear miscall messages over the mobile phone.

Similarly Re claim 40 has been analyzed and rejected with respect to claim 32.

4. Claims 29, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft etal. (US 2002/0107009 A1) and Yoo and Cook (US 6,434,407 B1) and further in view of Schmidt (US 6,522,894 B1).

Re claim 29, the method of claim 25, But, the combined teaching of Kraft and Yoo and Cook as a whole, fail to further disclose of the comprising: defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of operation. However, Schmidt disclose a phone with mode of operation wherein the defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level

from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of operation (co1.6 line 45-55). Thus, it would have been obvious for one of the ordinary skill in the art to modify the combination by incorporating the defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of operation for providing control volume with the operating mode.

Re claim 37, has been analyzed and rejected with respect to claim 29.

5. Claims 26, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Yoo and Cook (US 6,434,407 B1) and further in view of Shimizu et al. (US 2002/0031236 AI").

Re claim 26, the method of claim 25 with switch between modes, However, the combined teaching of Kraft and Yoo and Cook as a whole, fail to disclose of the further comprising disabling adjustment of the volume level from the default volume setting of the safe volume profile for a predetermined time period after the user has switched the mobile device from handset mode of operation to the handsffee mode of operation. But, shimizu et al. did disclose of the disabling of the adjustment of volume level from the safe default setting for a predetermined time period after the switching between modes by the user with rotation (page 7[0069]) for the purpose of preventing the user for switch the mode by mistake so that sound volume can be prevented from changing considerably. Thus, it would have been obvious for one

of the ordinary skill in the art to modify the combination by incorporating the disabling of the adjustment of volume level from the safe default setting for a predetermined time period after the switching between modes by the user for the purpose of preventing the user for switch the mode by mistake so that sound volume can be prevented from changing considerably.

Re claims 34, have been analyzed and rejected with respect to claim 26 above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DISLER PAUL whose telephone number is (571)270-1187. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. P./
Examiner, Art Unit 2614

/Vivian Chin/
Supervisory Patent Examiner, Art Unit 2614